IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.89 OF 2006

WITH

CIVIL APPLICATION NO.98 OF 2006

WITH

CIVIL APPLICATION NO.253 OF 2006

Smt.Sarojini Namdeorao Jagtap ...Appellant

Versus

Shri.Machindra Ramchandra Pawar

& Anr. ...Respondents

.....

Mr.Surel S.Shah for Appellant.

Mr.G.S.Godbole for Respondent No.1.

Mr.Rajesh S.Datar for Respondent No.2.

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CORAM: A.M.KHANWILKAR, J.

MARCH 23, 2006.

P.C.

1. Heard Counsel for the parties. Perused the relevant materials on record.

2. After considering the relevant provisions of the Memorandum of Association being Clause V thereof in its entirety, including sub-clauses (2) and (4) thereof, the view taken by the Court below that the term of the Managing Committee as per the extant constitution of Defendant No.2 Trust was limited to three years period, is a possible view. The lower Court has also adverted to the fact that in fact, two elections have been held after the decree has been passed in November 1989 and changed reports of the said Elections have been accepted by the First Authority. Indeed, the Appellant has questioned the correctness of those changed reports, the fact remains that under the provisions of the constitution as applicable, the term of the Managing Committee could not have exceeded three years at any point of time.

3. Viewed in this perspective, no fault can be found with the order passed by the Trial Court in granting temporary injunction against Defendant No.1 to function as President of Defendant No.2 Trust till further orders.

4. Hence, this Appeal should fail, the same is dismissed. In view of this order, nothing survives for consideration in the accompanying Civil Applications. The same are disposed of.

5. Interim order passed by this Court is vacated.

6. It is, however, made clear that the Trial Court shall proceed to decide the Suit on its own merits in accordance with law uninfluenced by any observations made in the impugned Judgment or for that matter, the present order.

A.M.KHANWILKAR, J.